

in terms of owning houses on individual basis. Though there is a tendency to construct multi-storeyed flats, apartments and the like on ownership basis, intending persons cannot purchase flats, tenements, or apartments in multi-storeyed buildings as they will not have a marketable title thereto and cannot obtain any loan by mortgaging such flats, tenements, etc. Consequently tenements constructed by the Housing Board for example cannot be sold to the tenants. Who cannot raise any loan on the security of such tenements with the result that an enormous amount of capital will be locked up, which can be utilised for new constructions to meet the increasing demands for housing. It is, therefore, considered expedient that each apartment should for all purposes constitute a heritable and transferable immovable property, and that suitable legislation should provide for all matters connected therewith. It is felt that such a measure will not only enable many a person to own his apartment, but it will at the same time enable institutions like Housing Boards to utilise their locked up capital in the construction of new buildings. The following notes on clauses explain the important provisions in the Bill.

*Clause 2.*—By this clause, the provisions of the Act are made applicable only to property, the sole owner or all of the owners of which submit the same to the provisions of the Act by duly executing a Declaration as provided in the Act.

*Clause 4.*—Under this clause, each apartment, together with its undivided interest in the common areas and facilities appertenant to such apartment is constituted for all purposes a heritable and transferable immovable property.

*Clause 5.*—By this clause, the owner of each apartment is given exclusive ownership and possession of his apartment and he is required to execute a Declaration that he submits his apartment to the provisions of the Act and a Deed of Apartment in relation to his apartment.

*Clause 6.*—This clause specifies the common areas and facilities to which each apartment owner shall be entitled, and prohibits an apartment owner from bringing any action for partition or division of any part of such common areas, unless the property has been removed from the provisions of the Act.

The clause further provides for carrying out the work of maintenance, repair and replacement of the common areas and facilities as provided in the bye-laws.

*Clause 7.*—This clause puts an obligation on each apartment owner to comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed to his apartment.

*Clause 8.*—This clause prohibits the apartment owner from doing any work which would jeopardize the soundness of safety of the property or reduce the value thereof or from adding any material structure or excavating any additional basement or cellar without the unanimous consent of all the other apartment owners being first obtained.

*Clause 9.*—This clause indicates to what extent encumbrances against apartments and property can arise or be created.

*Clause 10.* This clause provides for the sharing of the common expenses by the apartment owners.

*Clause 11.*—This clause mentions the particulars to be included in a Declaration.

*Clause 12.*—This clause mentions the particulars to be included in a Deed of Apartment.

*Clause 13.*—This clause provides for the registration of Declarations, Deeds of Apartments and copies of floor plans.

*Clause 14.*—This clause provides for the removal of property from the provisions of the Act.

*Clause 15.*—This clause provides that removal is no bar to subsequent resubmission of property to Act.

*Clause 16.*—This clause provides for bye-laws and their contents.

*Clause 17.*—This clause prohibits waiver of the use or enjoyment of any common areas and facilities by apartment owners to avoid liability to contribute towards the common expenses.

*Clause 18.*—This clause provides for separate assessment of each apartment.

*Clause 19.* This clause constitutes all sums assessed by the Association of Apartment Owners in respect of any apartment but unpaid, a charge on such apartment.

*Clause 20.*—This clause provides for the joint and several liability of vendor, etc., for unpaid common expenses.

*Clause 21.*—This clause provides for insuring the property against loss or damage by fire and such other hazards in certain circumstances.

*Clause 22.*—This clause provides for disposition of property in certain circumstances.

*Clause 24.*—Under this clause, the Act is made binding on apartment owners, tenants of such owners, employees of owners and tenants or any other person who may in any manner use property or any part thereof submitted to the provisions of the Act.

*Clause 25.*—This clause confers rule making power on the State Government.

*Clause 26.*—This clause provides that the Transfer of Property Act shall apply to every apartment as they apply to any immovable property and contracts to the contrary are over-ridden.

*Memorandum Regarding Delegated Legislation*

1. *Clause 5.*—Sub-clause (2) of clause 5 empowers the State Government to prescribe by rules the manner in which each apartment owner is required to execute a Declaration to the effect that he submits his apartment to the provisions of the Act and a Deed of Apartment in relation to his apartment.

2. *Clause 13.*—Sub-clause (3) of clause 13 empowers the State Government to prescribe by rules the form in which a book called ‘Registration of Declarations and Deeds of Apartments under the Mysore Apartment Ownership Act, 1972’ and Index relating thereto shall be kept in all registration offices and the particulars which such book shall contain.

3. *Clause 13.*—Sub-clause (4) of clause 13 empowers the State Government to prescribe by rules the particulars which the memorandum to be sent to the Sub-Registrar or the Registrar, as the case, may be, along with the copy of the Declaration and Deed of Apartment shall contain.

4. *Clause 25.*—Clause 25 empowers the State Government to make rules for carrying into effect the provisions of the Act. Power to make rules is subject to the condition of previous publication.

The delegation of the proposed legislative power is of a normal character.

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*Secretary.*